

**A Short INFORMATION**  
**OF THE**  
**P L E A**

1132. C. 38

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BETWIXT THE

**Town Council of LITHGOW,**

AND

**M<sup>R</sup>. James Kirkwood**

**SCHOOL-MASTER There,**

Whereof a more full Account may perhaps come out hereafter.

**M**R. *James Kirkwood* being Famous for his special skill in Teaching Youth; particularly by his framing, and publishing a new Latin Grammar & Rhetorick; very much approved by most of all the Learned Men of this Kingdom; and for the *Specimen*, or Essay he made on the deceast Lord *Bruce*, by teaching him in a very short time Latin, and Greek, was called by the Magistrates of *Lithgow* in the Year 1674, from that honorable and profitable service in the Earl of *Kincardine* Family, not without very much entreaty and good offers, to be School-master of that Burgh: And that not after the manner of his Predecessors, who contracted with the Town for a certain limited time, as five years; particularly *Mr. Skene* and *Mr. Gristy*, his two immediate Predecessors: Whereas he positively refused any fixed, or limited time; tho' he had offered him 13, 16, or what

years else he pleased to name: But he was admitted in general and absolute terms; as all Professors of Liberal Arts use to be, implying *Ad Vitam vel Culpam*; as his Act of Admission bears.

Thus he continued 14 years (longer, than any one, and some six of his Predecessors, at least in our age) to the great satisfaction of that place, living inoffensively without the least shadow of any stain, and duly receiving all the Emoluments and Profits of his Place; particularly a Salary of 400 Merks yearly according to agreement without any grudge, debate, or question about the Sum.

But in *April* 89 at the revolution of Affairs in this Kingdom the old Council going all off, and a new One of a different persuasion as to the Government of the Church coming into their room, they not so much desir'd at first, yet threaten Mr. *Kirkwood* to forsake the publick place of Worship, and to go with them to the Meeting house, which was kept in the Provost's own Kitchin: For *Walter Stuart* of *Pardivin*, whom Mr. *Kirkwood* had taught his English, Latin, and at least some Greek a few years before, (he being only then newly entered Major) told him in a very magisterial manner, that, unless he went with them to the Meeting house, he should not be long School-master in *Lithgow*. This was done on the 13 of *April* 89 in the house of one *James Johnston*, in presence of about 28 persons of the chiefest of that Persuasion in the Town, 12 days before *Pardivin* was made Provost.

'Tis known to all, that are acquainted with Mr. *Kirkwood*, of how moderate Principles he is in these matters, so much under Debate in this Kingdom. In a strict sense he is neither *Presbyterian*, nor *Episcopal*, humbly judging the External Policy of the Church indifferent, and to be disposed of by the Powers of the Land. And what they once settle and determine, becomes the Duty of Private Persons, and ceases to be indifferent. Upon this ground he refused to forsake the publick Place of Worship, till either the Convention of Estates, that was newly sit down, or the then ensuing Parliament, should make a change in the Government; And then, he said, *he would cheerfully concur*; For he thinks it his Duty to follow, and not to run before the Laws in these matters.

This he not only promised by word, once and again, (for many communings had he with them) but to assure them of his sincerity, he gave it in a Letter written and subscribed with his hand to *Pardivin*, the very

very day before he was elected Provest; for they two had had a long conference the day preceeding upon that head; And at parting he desired Mr. Kirkwood to think on it all night, and give an answer the next day; which he did by a Line reserving to himself a double, both which he shewed two Gentlemen, before he sent it, and in their presence gave the Principal to the Bearer, whatever might be the event of Things: And, which confirms all, he got a return from *Pardivin*, written and subscribed with his own hand. Most of the Lords of Session have seen Mr. Kirkwoods Letter, and all of them do acknowledge, it is most discreetly written, and that no more can be required of any Man, than what he there promiles. These Letters are set down *Ad longum* in that larger Account with a thousand other very strange things, which were too tedious here to relate.

But suppose he'd had the freedom to go to their Meeting-house ( for he is not very scrupulous in these Points: He can hear *Presbyterian*, *Episcopal*, *Papist*, yea a *Turk* or *Heathen* make a good discourse ) yet he could not do it at that Juncture: For he was sure, it would give great offence to very many of both sides. Some were already stumbling to see him so frequently conversing with the Provest; and he can instance them, that cry'd to him in the High street, *Turn Coat, Turn Coat*.

And further, his simple going to their Meeting would not have given satisfaction; unless he had conform'd in a hundred other things: He behoved to have forsaken all his old Friends. In a word, he was to learn a new Language. It offended them, when he call'd a Minister, *A Minister*. Curate you must say if you'l be a true Proselyte. When no words could prevail with him, they try more severe and cruel measures, by doing him great Acts of Injustice and Oppression. They quarter-upon him Men and Houses which was never done before, to him nor any of his Employ in that place. Nor was there any necessity to quarter on him, for it can be instructed, that 14 Families next to his had not so much as one Man, or Horse; and he had 4 of each sort, tho' it was a foot Regiment. Nor had he any Accommodation for such Lodgers, but was forced to set these Horses in a Room without Heck or Manger, full of Household-plenishing. There were also Billets drawn upon him for the *Danes*; but he was turn'd out of Doors, as you shall hear, before they came to that Place.

And, which was yet more Unreasonable; and tended more to the Hurt both of the Place, and Mr. Kirkwood, the Provest caused Gentle-  
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men carry away their Sons from the School, and that 5 or 6 Moneths before there was any report of his going from that place. The Circumstances of this Businels are so Odd, that it is Odious to relate them. A full account is given in one Instance in that larger Information, about *James Carmichael of Potisshaw.*

These most Cruel and Unjust Methods having no more effect, than the former, they fall on a third, which was to lessen his Salary. And therefore on the 12 of *October* 89 they make an Act, reducing it from 400 to 300 Merks a year, after *Martimas* then next: Lower at that time they could not go; For the Doctor has 200, and it had been a shame to level the Master with the Doctor: But the Provest told *Mr. Kirkwood*, that Doctor was to be turned out, and they were to give less to another: And then they might step a little lower; for it was as lawful to restrict his Salary to one, or two; as to 300 Merks. The circumstances of this Act are very remarkable: It was made altogether without his knowledge, they neither directly, nor indirectly acquainting him they designed any such thing. And is it not very strange, that one party should destroy a Contract, and make a new one without the knowledge and consent of the other? This is down right contrary to the very Nature of all Contracts; for they imply a mutual consent of Parties.

On the 19 of *October* (8 dayes after it was made) the Provest sent for *Mr. Kirkwood* to his Chamber, and intimated the Act. He somewhat surprized with the thing, reply'd, *'Tis a Question, if I'll submit to your Act: If you will not,* reply'd the other, *you must sit and remove. That's another Question,* said *Mr. Kirkwood.*

In short, for it were tedious to relate here all that pass, you have it at large in the other Account, and it is sufficient to shew here, that before that day eight dayes another Master was brought from *Edinburgh*, who by Act of Council was settled, and *Mr. Kirkwood* deprived of his Office, and ordained to remove from it at *Martimas* then next. He that day took Instruments in face of Council, that he was willing to serve according to agreement; as his Instruments bear of the date 26 of *October* 89.

Now suppose (which must not be granted) the Town had power either to lessen his Salary, or to put him away without a fault (for hitherto they did not so much as pretend the least shadow of any misdemeanour. And certainly, if they had known any, they would not have fail'd to lay it to his charge) that ought to be done legally and justly; according



to the Laws and Practick of this Nation. No Master can remove his Tenant, Cottar or Servant after this manner. 14 dayes is a very summary warning to turn a Man with a numerous Family of young Children out of doors in the cold of Winter. Nor can *Martimas* be his Term, as is proved in the larger Information.

After so much hard Usage, Cruelty, and Injustice, he thinks it more than time to seek out for a Remedy, looking on the Town Council, as both Judge and Party. And therefore he makes his Application to the Lords of Council and Session, by giving in to them, one Bill to suspend the Towns Act of Deprivation; another to Advocate the cause of removing from his house, and a third to suspend an Act, whereby they most unjustly fin'd him in 200 merks.

This last about the Fine, is a business that highly concerns *Mr. Kirkwood*; not so much, as to his Purse, as his good Name: For they thereby stigmatize him with one of the Blackest Crimes a Man can be guilty of, calling him openly at the Bar, and in their Informations to the Lords, *A Reviler of the Gods of his People*: By *Gods* meaning the 27 Members of the Town Council; so that the Deacons of the Websters, Sutors and Taylors in *Lithgow* are *Gods* forsooth! They alledging, (for *Mr. Kirkwood* positively denies it) he said, *The Town Council may think shame of their Allings*. These are the words in their Act of Amerciament, for which he is called, *A Reviler of the Gods*; But too much of this here. There's a large and a full account given of this business in a Paper by it self, which well deserves to be intitl'd, *The History of the twenty seven Gods of Lithgow*; wherein you shall see such ridiculous and droll stuff, such wild and extravagant Acts, such cruel and illegal Pranks, that tho you made search into the whole Records of all the Burghs in this Kingdom from their first erection to this day, you shall not meet with any thing, that can parallel this. Here you'll see one Bailly causing drag another to Prison, for words that had past betwixt themselves at Court; and he breaking Prison, is hal'd to it again by his own Officer to the great amazement and laughter of hundreds of People. Here you may read how one Bailly calls other two in face of Council (the one sitting *Prefer* at that time) *Perjured Villains, and Knaves*. Here you'll see some Burgeses, even of the best rank in the Burgh, staged for not taking off their Cape, when they past by the Provost in the streer, tho standing at a tolerable distance; others for taking it off and making too low a leg. In a word, Innocent, harmless, dumb Beasts do not escape their fury, for Bailly *Turnbul*, now my Lord Provost shut up in clois Prison within  
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the Tolbooth a poor mans horse a night and a good part of two days for rasing a little of the grafs in the Church-yard, himself being Jaylor, not daring commit the key's to an Officer, positively refusing to let the poor man give his own horse a peck of draff, that he had bought for his supper. Nor is the relation of these and many such passages impertinent digressions, but most conducing to the Subject there in debate.

With pardon for this, 'tis sufficient here, you know, that this business, for which Mr. *Kirkwood* was fined in 205 merks, is altogether extrinsec to the Plea in hand, and could not give any rise nor occasion to it: For he was deprived of his office; yea, another Schoolmaster was brought from *Edinburgh*, before this had any being: So that to alledge, or infer any thing from it, as the Cause, or Occasion of the other, is of all things in nature the most monstrous. 'Tis to make the Effect precede the Cause, as if one should aver the son to be in the world many years before the Father was born.

To return therefore again to our Point, besides the three Bills, he gave in also a Petition humbly begging, their Lordships would be pleased to discuss the Cause upon the Bill, which was granted; and recommended to my Lord *Aberuchal*, the Ordinary at that time to hear both Parties; and in case of difficulty to make report to the whole Lords.

After that the Cause was several times debated at the Bar, and Report made to their Lordships, they found, that the Town could not remove Mr. *Kirkwood* either from his Charge of School master, or from his House At that time; upon that ground, and After that manner, as the *Interloquitor* at more length bears, of the date 12 December 80. They did indeed sustain the Fine upon a mistake, and recal'd it in their next.

The day following the Town gave in a Petition reclaiming against the Sentence, and desiring a new Hearing upon other Grounds. The Lords being most willing to do them all the Justice Law could allow, granted their Request.

The Point they had to prove, was, That Mr. *Kirkwood* had dimitted his Charge, and *Simpleiter* refused to serve any longer. The Town at first thought his refusing to serve upon Diminution of his Salary, was a sufficient Dimission: And therefore they desire a new Hearing to make good that Point by other Arguments. Mr. *Stuart*, Brother to *Colinss* adduced only these two following.

First,

First, said he, *Mr. Kirkwood* took his leave of his Scholars, and exhorted them to be obedient and submissive to their new Master; *Ergo*, he dimitted. It was answered, That after the Key of the School was taken violently out of his Pocket by the Town Officers, as Instruments then taken (11 Nov. 89.) bear; he made indeed a Discourse to his Scholars for half an hour, most seriously recommending to them their Duty to GOD and Man; particularly exhorting them to be obedient and submissive to all supreme Powers, whom GOD in His Providence set over them; to all subordinate Rulers, Magistrates, Parents and whatever Masters they might have after him. The Lords found this made for, and not against him; being a very great Symptom of a peaceable spirit.

The 2d argument was in these express words: *Mr. Kirkwood* went into the School, and welcomed the new Master, by taking him by the hand and wishing him all Joy and Happinels in his Charge. This said *Mr. Stuart*, is an unanswerable Argument, and a most certain homologation of his dimission. And to speak the truth, it made *Mr. Kirkwoods* Advocates look one to another: but being a matter of Fact it was fittest to be answered by himself, and therefore he said to the Judge: my Lord, if it can be instructed, that I have set my foot within the School, since that man, whom they call their School-master entred it; yea, or that I spoke to him all my life within, or without the School, about that, or any other Affair, I shall lose the Cause. I wonder, my Lord, continued he, how Men, who pretend to great strictness in matters of Religion can contrive meer Falshoods and Lies, to carry on an unjust Cause. *James Stuart*, said my Lord, speaks as he is informed. I am sorry, my Lord, reply'd *Mr. Kirkwood*, such Informers should be our Reformers.

This Hearing being reported to the Lords, they again confirm their former *Interloquitor* in *Mr. Kirkwoods* favours, unless the Town could produce under his hand a Dimission, or he durst not depone he did it not in face of Council. The first they could not do, and he was clear to do the other.

Upon this fell out a very deep design or (to give it a more proper name) a Hellish Plot against *Mr. Kirkwood*; not his person, but, which is worse, his good name: For the Provost did contrive a way to make him eternally Infamous, by proving him Perjured, if he should depone he did not dimitt: But, thanks to the Almighty, he escap'd, and the Contrivers are fallen into the Pit, they digg'd for another.

It were too tedious to relate this Story here, and we have no will to make a 2d digression. 'Tis done to the life in the larger Information, so convincingly, that no man can deny the force of the Arguments:

For

For they are equal to *Demonstrations*, and by their Consequence most of the Town Council according to the Provests Principles are Perjured, or yet in the sense Baily Bear in face of Council call'd Baily *Higgins* and Baily *Smith* Perjured Knaves, and tho Law does not reach them as guilty of this horrid iniquity, yet they will be found to have made a most deliberate, malicious, and Judicial Lie, which is certainly in the next degree to Perjury.

The Town having lost this Plea, makes another Act on the 25 of December 89, ordaining Mr. *Kirkwood* to remove at Candlemas then next. 'Tis still an illegal and summary Warning, there not being 40 days to the Term: To say nothing of the unlawfulness, and unreasonableness of forcing any Person to sit in the middle of Winter with a numerous Family of young Children, it being to be supposed, there are not then houses to be set. It might also be added, that this Act was made (as Laws then stood) on a day set apart for another work: The Lords of Session not then daring sit according to Law.

Mr. *Kirkwood* did also suspend this Act, which being debated several times at the Bar before the Lord *Philiphaugh*, at last after a full hearing on the 28 of Jan. 90, his Lordship told both Parties, he would report on the last of that moneth: and therefore desired them to prepare their Informations.

Mr. *Kirkwood* accordingly dispersed his amongst the Lords; but the Town in stead of theirs gave in a Petition, desiring a new hearing before report. The Lords granted their desire, but in the mean time discharged any execution to be used against the suspender, as the deliverance of their Bill bears.

This Hearing was to be on the 4th of Feb: and could not be sooner, that being *Tuesday*, and yet on the 3d of that moneth, contrary to the express Sentence and Order of the Lords; contrary to the very Import and design of their own Petition, contrary to the Rules of honesty and human Society, and contrary to the nature of their Station and Office, they clandestinely and treacherously eject mistress *Kirkwood* with her Children and Servants, he being in *Edinburgh* attending the Plea. The particulars of this Action, being very remarkable are fully related in the larger Information.

On the said fourth day the Cause is debated, neither Party knowing,

what was done at *Lisbon* on the 3d. A few minutes after the Debate *Mr. Kirkwood* receives a Letter from his Wife, giving some little account of this business. Immediately he acquaints his Advocates, whereat they being exceedingly astonish'd, bid him shew the Letter to my Lord *Philpbaugh*. He no less amaz'd, promised to call both Parties to the Bar without fail the next day; tho he had told them, he was to Report before any further hearing; nor was it his Lordships turn to come out that day to the Bar; but this being an extraordinary Emergency, he said, he thought it his Duty to enquire after the Reasons of so illegal, and unjust an Action. Accordingly both Parties meeting at the Bar, *Mr. Kirkwoods* Advocates, (*viz. Sir Patrick Hume, Commissar Dalrymple, and Mr. William Monipenny*) immediately fall on that head, and severely challenge the Towns Act; saying, it was the height of injustice, an exceeding great contempt of Authority, and an unparallelable instance of a Treacherous and Deceitful Dealing with the Lords. The Town, said they, gave in a Petition, desiring another hearing, and yet were resolv'd (as the Event proves) in the mean time to Act, as if they had gain'd the Cause. *Mr. Stuart* answered, he knew nothing of it, and for ought he could think, it was a meer Calumny. For there was nothing to instruct the verity of the action, but *Mistress Kirkwoods* Letter. He hazard the Cause, repli'd her Husband, on the truth of my Wifes Letter. The Master of *Sair*, now My Lord Secretary, then the Kings Advocate, and employed by the Town, stood amaz'd to hear of the wild and extravagant asings of his Clients: At length he said; They have hugely prejudg'd their own Cause; and so went from the Bar. This was all that was done at that time.

On the 9th of Feb. the Cause being reported, the Lords did further recommend to My Lord *Philpbaugh* to discuss the Reasons of Suspension upon the Bill, and in the meantime stop'd all execution; as the *Interloquitor* at more length bears: For in this Plea there are many Heads to be discuss, such as, *Whether or no, it's in the Towns power to lessen Mr. Kirkwoods Salary; Whether they can deprive him of his Office without a fault, giving him a legal Warning? &c.* That they could not lessen his Salary nor put him away after the manner they had done, is already determined by the Lords in two several *Interloquitors*.

So that he has absolutely carry'd this Plea; for he has never got a legal Warning: Nor have they legally lessened his Salary.

We now go on to tell, that as to the matter of Ejection on the 3d of Feb. *Mistress Kirkwood*, not well understanding the nature of such an action, had written in French to her Husband so lamely and overly about it, that the Lords thought the Town had only *Mind'd* or *Am'd* to do such a thing: Tho in effect all the formalities due in that case were us'd; as, Putting out the fire, &c.



For they are equal to *Demonstrations*, and by their Consequence most of the Town Council according to the Provests Principles are Perjured, or yet in the sense Baily *Bear* in face of Council call'd Baily *Higgins* and Baily *Smith* Perjured Knaves, and tho Law does not reach them as guilty of this horrid iniquity yet they will be found to have made a most deliberate, malicious, and Judicial Lie, which is certainly in the next degree to Perjury.

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This Hearing was to be on the 4<sup>th</sup> of *Feb.* and could not be sooner, that being *Tuesday*, and yet on the 3<sup>d</sup> of that moneth, contrary to the express Sentence and Order of the Lords; contrary to the very Import and design of their own Petition, contrary to the Rules of honesty and human Society, and contrary to the nature of their Station and Office, they clandestinely and treacherously eject mistress *Kirkwood* with her Children and Servants, he being in *Edinburgh* attending the Plea. The particulars of this Action, being very remarkable are fully related in the larger Information.

On the said fourth day the Cause is debated, neither Party knowing,

what was done at *Lisgow* on the 3d. A few minutes after the Debate *Mr. Kirkwood* receives a Letter from his Wife giving some little account of this business. Immediately he acquaints his Advocates, whereat they being exceedingly astonish'd, bid him shew the Letter to my Lord *Philphaugh*. He no less amaz'd, promised to call both Parties to the Bar without fail the next day; tho he had told them, he was to Report before any further hearing; nor was it his Lordships turn to come out that day to the Bar; but this being an extraordinary Emergency, he said, he thought it his Duty to enquire after the Reasons of so illegal, and unjust an Action. Accordingly both Parties meeting at the Bar, *Mr. Kirkwoods* Advocates, (viz. *Sir Patrick Hume*, Commissar *Dalrymple*, and *Mr. William Monipenny*) immediately fall on that head, and severely challenge the Towns Act; saying, it was the height of injustice, an exceeding great contempt of Authority, and an unparallelable instance of a Treacherous and Deceitful Dealing with the Lords. The Town, said they, gave in a Petition, desiring another hearing, and yet were resolv'd (as the Event proves) in the mean time to Act, as if they had gain'd the Cause. *Mr. Stuart* answer'd, he knew nothing of it; and for ought he could think, it was a meer Calumny. For there was nothing to instruct the verity of the action, but *Mistress Kirkwoods* Letter. He hazard the Cause, repli'd her Husband, on the truth of my Wifes Letter. The Master of *Sair*, now My Lord Secretary, then the Kings Advocate, and employed by the Town, stood amazed to hear of the wild and extravagant actings of his Clients: At length he said; They have hugely prejudg'd their own Cause; and so went from the Bar. This was all that was done at that time.

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After this last *Interloquitor* Mr. Kirkwood enquired at several of the Lords, Advocates, Clerks and Writers, if there was any hazard from the Town. All, as with one voice said, There was no ground, or cause to fear : for they were sure, the Town durst not meddle in that Affair, till the Lords gave out Sentence : Yet he being still jealous, knowing their Cruelty and Malice, thought fit to secure himself by all means possible : And therefore he went to the Lord *Philiphburgh*, and humbly begg'd his Lordship would be pleased to give him subscribed under his hand the Sentence of the Lords, which he might intimate to the Town, and then he was sure they durst not move any further in that business.

'Tis not the custome, reply'd My Lord; nor is there any need to give such a Paper : I assure you, Mr. Kirkwood, they dare not meddle with you. My dear Lord, said Mr. Kirkwood, I know *Them* people better, than your Lordship : Ignorance, Malice and Fury, what dare they not do? Abundance of Law breaks not Law : A Paper under your Hand questionless will put a stop to their rage : My Lord, grant me this one Request for GOD's sake. His Lordship moved with these words, very frankly condescended ; and gave under his hand the following Stop or Sift.

*Whereas the Lords of Council and Session by their Interloquitor this day upon a Report made by me in the Bill of Suspension at the Instance of Mr. James Kirkwood School-master of Lithgow against the Town of Lithgow, ancient the suspending their Act of Deprivation pronounced by them against him on the 23 of December last, did recommend to me to discuss the Reasons of Suspension upon the Bill, if the Chargers insist against the said Mr. James ; and if they refuse to insist, that I should pass the Bill of Suspension. Therefore these are to stop all further execution against the Suspender, until the Chargers make their Election ; whether they will insist, or not, that I may discuss the Reasons, or pass the Bill. In witness whereof, I have subscribed thir presents at Edinburgh the sixth day of February 1690 Years.*

Sic subscribitur, J. A. MURRAY.

Thus Mr. Kirkwood returns home to *Lithgow* with this Protection in his Pocket, dreading no hurt from the Town, and duly, and legally intimates the same to the Magistrates, by giving them an exact Double with the Principal, desiring, if they pleased to compare them, which was done by Bailie *Main* and the Town Clerk, The Bailie looking on the Principal, while the Clerk read the Double ; And Instruments taken thereon of the date 8 of February 90 Mr. Kirkwood getting back the Principal, immediately they carry the Double to the Provost ; and within 3 or 4 minutes, the Council Bell rings (for the 3 Instruments can attest there were not hours betwixt the Intimation and the

the breaking up his Chamber door) and after a very short deliberation all the four Officers are sent from the Council without having any person with them to Mr. *Kirkwood's* house, who in a most violent manner break up the Chamber door, wherein he was, and first take the Keys out of his Pocket, and then drag himself, his Wife and six young Children most barbarously down stairs.

The circumstances of this Action are so remarkable, that we cannot, but at least touch some of them.

It was in the morning: The Children had not on all their Cloaths: One poor Infant, who had been a year and more under the hands of Physicians from *Edinburgh*, and else where, was snatcht away from a warm fire side to the cold Winter air. It would have pited a heart of stone to see that Child sit by the fire: How much more to be hurried out of doors in the Winter season? And when the tender-hearted Mother begg'd the Officers, they would suffer her to cast a loose cloath about her poor Infant; they sturly refused it. The cause of this barbarous and cruel dealing you will hear immediatly. But, that, which is most considerable in this passage, is, That *William Higgins* eldest Bailly, who professeth no little skill in that, as in many other Arts, had been seeing the Child 2 or 3 days before; and not only prescribed, but sent to her by his own servant some things he had composed, of which she was to take a little every day, giving strict orders she should be kept warm; while she took these Remedies. And yet in the mean time (O the height of Barbarity and Cruelty!) he sendeth her this wonderful *Antidote* by the hands of 4 rude Fellows. Nor was the condition of this Infant unknown to the whole Council, being represented to them in express terms. It pleased GOD to remove this Child without the reach of wicked Men some time after this.

Mrs. *Kirkwood*, whom all know to be a very tender and sickly Woman, and at that time not fully recovered of a long and a dangerous Disease, was then by accident in a very coarse and thin Busk, being-busied about a good fire in smoothing Linnen. She was in a dress fit enough for the work she was about; but not to be dragg'd out to the open Street to become a gazing-stock to the World. And was it not a very dangerous thing thus to terrifie a Woman with Child? 'Tis not fit to relate here what sad effect this fear had on her, and what risque of her Life she run. 'Tis enough to tell, that, when she most earnestly begg'd the Officers to suffer her to put on her Shoes, and cast any loose cloath about her self; at least to make fast the Coffers or Trunks that were standing open; or to lay aside the Linnens that were amongst her hands; they answer'd their Orders were not to give a minute of time,

One of the servants, whose tour it was that week to play the Cook, and it being the last day thereof, lookt more like an *Ethiopian*, than an *European*; when an Officer took her by the shoulders, What, said she, shall I go out like a *Gypsey*? Let me get some clean cloaths with me. But she was not heard. You must be content, said the Fellow, with the fare your Mistress gets.

Mr. *Kirkwood* thinking to save himself by laying Hands on the Horns of the Altar, (for a Mans own house is his Sanctuary) clasp't his armes closely about a stoup or post; but the rude fellows tugg'd so lustily that had he not quickly let go his grip, they certainly had carried away the trunk of his Body leaving the armes in a very odd figure.

Mistress *Kirkwood* having for shame of her busk run below a stair with her six Children, when she saw her Husband hal'd away by the Officers, her shame vanisht and a panick fear seiz'd on her, thinking they were going to ———. But she was mistaken: They were not so cruel, as she fancied. They only hurried him away to Prison, and shut him up in a close Room with one *George Stevenson* a countrey Webster; as if he had been a Malefactor.

This fear made such deep impresson upon her spirit; that always thereafter, when she saw these Officers, tho' at never so great a distance, she could not forbear trembling and shaking, albeit her Husband used all the Rhetorick he was Master of to discover the folly of that Passion: So that at last he was forced to send her in to *Edinburgh* and stay himself at *Lisbgo*, till he disposed of his Goods.

It might have been expected, especially from Persons of their Perswasion, that some regard should have been had to her on the account of her Brother, Captain *Van-Beeft* in Colonel *Ramsay's* Regiment, who had behaved so well at *Killichranky*; was sore wounded, taken in the place, and lay long in the *Blair of Athole*.

But we need not make use of any such consideration to exaggerate this Crime: The bare and naked relation of this fact is such, that tho' you should search into the Records of all the Burghs of this Kingdom since their first erection, you shall not find any thing comparable to this Business. Here's the height of Injustice: Here's unparalleable Contempt of Authority: The supreme Judges of the Land are baffled, and their Authority trampled under foot. Nor is this done by a single Person, or a few in some remote corner of the Nation; but by a Society; a Town Council, and, (to use their own words) by an Assembly of Gods, met at their own elbow. Nor did they act this rashly or ignorantly; but most deliberately, and advisedly; and questionless most wittingly, and over the belly of their own Consciences. How is it possible



fible, it can be otherwise? being done immediately after the Intimation of the Sentence of the Lords; in spite and opposition to their Sentence. What, as it they had said, The Lords thought we had minted to do this: but we will let them see its not a *Mint*, but a Real & c. We value not their Sentence a pin, tho it be sent out to us. This, and worle too, is the genuine and true Consequence of their actings.

But would you know, why they did things so furiously and rudely. It was to force Mr. *Kirkwood* to a Dimission, as you shall better know from what they did on Munday thereafter: For this is not all, there is worle coming, and yet worse on the back of that. If ever that *Scots Proverb*, *Once wood and ay the worse*, was verified, you will find it in this affair.

At night Mistress *Kirkwood* earnestly besought the magistrates to give her out of her own house some of the meat, that was a preparing for Dinner, (no doubt over boild, for they were in so wood a haste, that they minded not to put out the fire) and some Cloathes for her Husband and her self to ly on in Prison, and her Children, that were dispersed with the servants into three several Families, it not being very easy to get Cloathes suitable to young Infants: But they flatly refused to give her one crumb of Bread, or so much as one threed of cloaths, unless her Husband would subscribe a Paper.

For which end they sent their Treasurer express to Prison. Mr. *Kirkwood* answered, he would subscribe any Paper they pleased, providing it were not prejudicial to his Cause: depending before the Lords. Upon which they flatly refused to give out any thing.

From Prison he wrote to his Advocates, desiring them to give in a Bill to the Lords, which accordingly was done on the Tuesday; He wrote also to the Master of *Stair*, the Kings Advocate, humbly representing to his Lordship, he behooved now to turn sail, and defend, according to his place, the Lieges from the Oppression and Injustice of Illegal and Cruel Men.

About nine a clock on Munday the Provest sent three Officers to Prison to tell him, to provide a house against ten to put his goods in. My Goods, said he to the Officers, are in my own house, I mind not to remove them.

This Answer being carried to the Provest by these Officers, he sent them back to tell him, he must go out of Prison to see his goods ejected. Out I will not go, replied he to the Officers, till I know who put me in, (for some said it was by the Provests Order only, others the Councils) and for what Cause or Crime I'm imprisoned; And if I be liberate, when I go out. Away again go they to the Provest; and return with orders to drag him out, if he will not come willingly, and  
with

with all telling him, that the Provest refused to answer any of these Questions. Upon all which four Heads, he by chance having a Notar by him took Instruments.

Thus he was dragg'd out of his own house to Prison, and out of it again to his own house. This looks liker a Romance, than a Law plea; and would be no ill Subject for a Comedie, if it could end well.

In short, (for a larger Account of this passage is to be had elsewhere) the four Officers with other four men, of which one was the Deacon of the Wrights, a Member of the Council, fell to work, and pull'd down in a moments time above 40 well illuminate Maps or Caris, a great number of Pictures, Taliduces, Chronological Tables, and many fine Cuts or Delineations of the Holy Scriptures, Antiquity, &c. wherewith he had two large Rooms compleatly hung. All which with 1800 Grammars, printed at London, in loose sheets they threw out, not into the Cloſe, a place somewhat secure and cleanly; but into the open dirty street. After this they pull'd down as hastily the Hangings of the Chambers and Beds, and break into pieces fine Dutch Presses; casting out in many small parcels the Laces, Linnens, and what else was in them.

Mistress *Kirkwood* most earnestly begg'd these men to let her put the Laces and Linnens, and other small things into Coffers. We must obey orders, said they; go to the magistrates, and seek leave; we are discharged to give you a minute. Upon this she sent twice to them but got no return. At last she went her self to Bailly *Higgins*, and in a most humble manner with tears intreated him not to suffer these men to destroy all her Goods. Go to the Provest, said he, for he does all. I cannot go to him, reply'd the poor stranger; for he is a furious man: And with much ado got she these words uttered; so great a weight was on her Spirit. The Bailly moved with some compassion at that time went to the Provest, who returned this Answer, That he would not grant one minute, unless her Husband would subscribe a Dimission; which if he would do, he should not only get days, but weeks to transport himself. I know, said she, my Husband will subscribe no such Paper! You need not then, reply'd the Bailly, expect one minute of time.

'Tis needless here to relate, with how sad a heart this poor afflicted Woman return'd back to see her Goods all destroy'd: And to add to her sorrow, she went and came by a Lough side, (that she might shun the gazing multitude) where she was forced to wash her Feet and Legs too in the cold of Winter.

Now, if this be not *Arbitrary Government* in its vigour, or that, which Lawyers call *Concession*, and common People *Club-Law* in its rigour, let the

the World judge: On design and of purpose so to spoil and destroy mens Goods, that you may force them to give you all your will.

The former Magistrates use to boast, they built the best House in *Scotland* for their School-master, and the present may be ashamed they have spoiled it of the best furniture, For Mr. *Kirkwood* may say without vanity, or speaking beyond the Truth, he had the best furnished house of any of his Employ in *Scotland*, the Effects or Goods in it being above nine Thousand Merks.

What loss or damage he has sustained by this ejection, and what reall want or embezzilment of his goods there is, cannot be easily demonstrated: But of this with the Expence of this Plea a fuller account is given else where.

After all the goods were thrown out of doors, excepting some chimneys and a few other things, which they possess to this day, and what were in his Closet or Study, which that day was left entire for another Riot, as you shall hear, he very innocently slip from the Officers up to the Palace (about 20 paces from his house) which is a Sanctuary into which they dare not set their foot: where having rested 2 or 3 hours in the Earl of *Lithgow*'s house, he afterward came stepping into *Edinburgh*, by the help of the Moon through dub and mire, not keeping the ordinary rode for fear of the Provost's hounds, that were become almost mad, they had lost the Sent of their Prey. Of this Passage you have a fuller account in the larger Information.

After he had come to *Edinburgh*, and inform'd his Advocates of all that had happen'd him in *Lithgow*; they adviled him to seek back his Bill, that was given in to the Lords: For said they, the Crime, the Town is guilty of, is of a much higher nature, than the Lords of Session can punish; and doth properly belong to the Lords of their Majesties secret Council. Accordingly he went to Sir *Alexander Gibsons* Chamber and got back his Bill. His next work was to go to the Master of *Stair* then the Kings Advocate, whom he casually rancountred coming out of the Countels of *Kincaidins* Lodging. We are well met, said My Lord: I received your Letter: I know your whole Affairs: They are a distracted People you have to do with. I would advise you to leave them. You will not want a Place. Will you accept of fifty Pounds *Sterling*, and pass from this Riot of Imprisonment, and be pay'd up to this day of all the Profits that belong to you as School master? And besides they will pass the fine. Alas, My Lord, repli'd Mr. *Kirkwood*, I find you know not the whole Business. That, they did on Saturday, of which I wrote from prison to your Lordship, is nothing in compare of what they did on Munday. I'm ruin'd, My Lord; I'm utterly ruin'd

ruin'd. They have destroy'd all my goods; thrown them out in parcels into the filthy mire. Fifty Pounds! Many fifties will not repair my loss. His Lordship gave no return, but lifting up his hands and eyes to the Heavens, said; They are gone mad: Certainly they are mad. And with that run down stairs. This was on Wednesday 12 of February 1700.

The day after Mr. *Kirkwood* went into the Session house, and as he is entering within the Bar, he meets Mr. *Stuart*, who with a smile took him by the hand very heartily, saying, I wish, Mr. *Kirkwood*, this business 'twixt the Town and you were taken away. Will you agree with them? You are the only man, replied Mr. *Kirkwood*, that has stopt our Agreement. You know very well, Sir, when my Lord Advocate at his first compareance at the Bar for the Town, advised my Lord *Philiphaugh* to call both Parties to his chamber, and there to take away Differences in a Friendly manner: that I then answered, I was most willing to refer my self absolutely to his Lordship, tho the Towns Advocate: You replied, Things were come so great a length, that they could not be taken away, but by a Sentence of the Lords. And now after you have ruined me, you would have me to agree. Have not I just ground to retort your own Argument; and now tell you, matters are come to such a height, that they cannot be taken away, but with a severe Sentence, not only of the Lords of Session; but also of their Majesties Secret Council. 'Tis best things be taken away peaceably, said Mr. *Stuart*: Will you yet refer your self to his Lordship? And with this he again takes Mr. *Kirkwood* by the hand, and leads him to the Advocate who was sitting on a bench in the outer house: My Lord Advocate saith Mr. *Stuart*, Mr. *Kirkwood* is willing to refer himself in this affair 'twixt the Town and him to your Lordship. It shall be sore against my will, repli'd my Lord, if I undertake such a task. Will you refer your self to my Lord, said Mr. *Stuart* again to Mr. *Kirkwood*. Such deference I bear his Lordship, replied the other, and so discreet and generous a Person I judge him to be, that I think I need not fear to do it.

In short, an Appointment is there made against eight a clock the next morning; or if that fail'd, at two in the afternoon in the Advocates Chamber: But the Provost, Baily *Higgins*, and *Jerom Hunter*, Treasurer, who were then in *Edinburgh*, refusing to subscribe an absolute Submission, that Appointment came to naught, only Mr. *Kirkwood* to signify his willingness did deliver his Submission in most absolute terms, but unsubscribed to his Lordship in presence of his eldest son, telling he was ready to subscribe that Paper, if the Town would do the like.

Mr. *Stuart*, after the hours of appointment were elaps'd, sent for  
Mr.

Mr. *Kirkwood* to his Chamber, and desired he would hear him read over a Qualified Submission, which the Town had drawn up. And shall I, said Mr. *Kirkwood*, subscribe an Absolute Submission, and the Town a Qualified One? You may hear it, said Mr. *Stuart*. 'Tis an ill Tale that may not be heard, said the other. He was not well begun, when Mr. *Kirkwood* cry'd, Stop, Mr. *Stuart*, *Ex ungue Leonem*. I know what's in that paper. I will as soon have that finger cut off, as subscribe it. In a word, there were such absurd and ridiculous Clauses and Conditions in it, that it's a wonder the Town could fancy Mr. *Kirkwood* would consent to them. One was, That he should acknowledge it was in the Towns power to turn him out at pleasure. This he had all alongs denyed, and now by his Subscription to acknowledge it, had been a sign of very great weakness. And besides, the Lords had by two several *Interlocutors* in expresse Terms, Declared, that the Town could not Deprive him of his Charge, *At that time*, *For that Cause*; And, *After that manner*; And by an infallible Consequence, they could not do it *At Pleasure*: And so his Subscription had been a down right Contradiction to the Sentence of the Lords.

On the 19 of *February*, The Cause is again Debated at the Bar. After hearing. My Lord *Philiphaugh* told both Parties he would Report on the 25th. But the Session being to rise on the 28, no Report was made. And here Matters stand betwixt the Town and Mr. *Kirkwood*, as to *Civil Law*; But as to *Club Law*, take this other Touch.

He was hardly well arriv'd at *Lithgow*, on the first of *March*, when immediately without any Citation, he was call'd before the Council, and there ordered to remove out of his Study, which, as is above related, was left entire at the former Riot, all his Books, Papers, and what else he had in it: The Study, repli'd Mr. *Kirkwood*, and whole house is mine, and will be so, till the Lords determine the contrary: And therefore I'll remove nothing out of it, We will do it then by force, said the Provost. You may on your hazard, repli'd Mr. *Kirkwood*; and so went out of the Council.

It were very tedious to relate here the many strange Circumstances of this Scene. You have them at large in the other Information. Let it suffice here to tell that on the 4th of *March*, as Instruments then taken attest, Bailly *Smith*, James Muckle Deacon of the Wrights and some others brake open with Hammers and other Tools his Closet door; and threw out into the dirty and nasty streets all his Books, both bound and in Sheets and many other things of verry great worth, partly his own, partly belonging to others.

His loss and dammage (not to say, the Publicks) by this Riot is



very considerable. He is ready to Depone that he has lost thousands of Papers, partly compos'd by himself, partly by others in *Prose and Verse*; which he would not have parted with for a vast sum, as their real worth: But as to the *Pressum Affectionis*, is by far of much more Value. If a Lady of Honour, that could carry away from a Gentleman a *Black Bird*, and it perishing in her hands, was found oblig'd to pay him Nine Hundred Merks, as *Pressum Affectionis*; What must be reckoned for the real worth of so many Thousands of fine Papers, being the Product of 70 Years great Labours; (For, since some of these were compos'd, is so long,) And how great the *Pressum Affectionis*, 'tis left to Impartial Judges to determine.

## The Conclusion.

**M**R. Kirkwood hopes and expects, whosoever shall impartially, and without prejudice consider this whole Affair with all its circumstances, he will excuse him for being so particular in these matters. He's abus'd in the highest degree, both as to his good Name, and Fortune. They brand him with this *Stigma*, *A Reviler of the Gods of his People*: And in one of their Acts call him, *A Person void of the fear of God*. Whereas there's no Man hath a higher veneration, and a greater deference to these, than GOD sets over us, than he, according to the express Command of GOD, *Submit your selves to the King as Supreme, and so these, that are sent by him*. And is it not for this very thing he has suffer'd? For his Loyalty in its strict and proper sense; viz. For his firm adherence to the Laws of the Kingdom, and for keeping the publick Place of Worship, establish'd by a common Law, till the Powers of the Land make an alteration therein, the external Policy and Government of the Church being in his judgement ambulatory, and indifferent, left to the Wisdom and Discretion of Superiours, to be dispos'd of as they shall judge convenient. And tho' there may be a Worse and a Better; yet, if neither of them be sinful; private Persons for peace's sake ought cheerfully to comply with that, which to them (tho' perhaps not in it self) may seem not so convenient. Which things, tho' in their own nature indifferent; yet being once settl'd, and establish'd by Law, cease to be so, and become our duty, not so much, because ordain'd to be done by Man; as that it is enjoin'd us by GOD to obey such Laws of Men.

And yet he has been most virulently aspers'd, and traduc'd, and tho' he has behav'd very dutifully in his Office and through the Blessing of  
GOD

GOD on his endeavours, done much good in that Place, and liv'd in-  
offensively there these 15 years past; yet hath he been most barbarou-  
ly treated, as a Villain and notorious Pest, that was no longer to be en-  
dur'd; tho' there came no Complaint in against him from any Person  
within or without the Town: And tho' the Lords of Session did put a  
Stop and Sift to all execution against him or his upon the Town Coun-  
cils Sentence; yet their Authority hath been manifestly vilipended, con-  
temn'd, and baiff'd, and their Orders contraven'd to the great scandal  
of the Lieges: For prevention whereof, as much as is possible, this Ac-  
count is offered in vindication of the Lords of Session; and of Mr. Kirk-  
wood; he being now not alone concern'd in this matter: But with him  
the Judges of the Land, and the Authority, by which they are sett'd,  
all suffering with him in this Cause.

Can therefore any man in reason blame him, if in a fair and legal way  
he seek a just Reparation of the Loss and Damage, he has sustained  
by wicked and cruel Men? They have rob'd him of his Purse, and in a  
most violent manner taken the Coat off his back; and given it to ano-  
ther. And shall he sit with this injury? Do you not rather judge it his  
duty, to use some lawful mean, whereby he may recover that, which  
he hath earn'd with the sweat of his Brows.

And think you it just, that poor, ignorant, simple People, should be  
punish'd for small, and almost inconsiderable Faults, done perhaps rash-  
ly, or inadvertently; or, may be, out of want and necessity; and yet  
a Society, a Senate, or Town Council, who are pickt or chosen out of  
a great number, as the Wisest and most Intelligent in the place, and  
whose very Office it is to protect and defend the Oppressed, pass Scars free  
for most atrocious and horrid Crimes, perpetrated, not rashly, or ignorant-  
ly; but most deliberately, and wittingly; not once, or twice, but frequen-  
tly, over and over, again and again? It might be added; (were it not a lit-  
tle off the purpose) not to one, two or three persons; but to a great number  
of all sorts in that place, of which an Account may be had elsewhere.

Were therefore things duly pondered, it would be found, that not Mr.  
Kirkwood; but the whole members of the Town Council of *Lithgow* are to  
be justly lookt on as *Contemners* and *Revilers of the Gods*: For in this present  
Case, they are not Rulers, or Magistrates; but private persons; no less,  
than he himself, being his adverse Party. What? Revilers only! They  
are Revilers in a most high and superlative degree. Never, yea never  
was such a palpable and manifest Affront put upon the Rulers of this  
Kingdom as in this present Case: 'Tis no less a Crime in effect, and in a ge-  
nuine and true Construction of the Towns Astings, than if they had  
thrown filth & mire at the Faces of the Lords of Session (to go no higher);  
and spit in their very Countenances, bidding them utter Disfiance.

## A General Account

Of the *Damages, Loss, Expence and Trouble*, Mr Kirkwood has met with by this Plea preceding *April, 1690.*

That all these four Heads are very considerable, may appear from these following Particulars.

I. Know that he Raised and Discuss Three *Suspensions*, an *Advocatus*, a *Summons of Redution*, a *Declarator*, cited to *Edinburgh* the whole Town Council; Gave in to the Lords *Seven Bills*, 82 *Informations*, Took 31 *Instruments*, Extracted 7 *Ads* made by the Town; Got doubles of their *Bills*, besides many other Papers, as *Minutes*, *Interlocutors*, &c.

II. What *Consultations* and *Pleadings* cost him, ( the Cause being 13 or 14 times Debated at the Bar ) he will not here set down; Only he acknowledgeth, he had to do with mighty Discreet Gentlemen.

III. He attended the Plea at *Edinburgh* 14 or 15 Weeks. What his *Ordinary* and *Extraordinary* Expence might amount to in that time, having to do with so powerful a Party, They know best who have Experience in such Attendance.

IV. He travell'd to, and from *Edinburgh* 18 times on that Account.

V. What Damage he sustained by having to much Fine Furniture cast out into the Streets, in manner above mentioned, may be better Conjectured than Demonstrated. He can produce an Instrument taken two or three dayes after the Ejection, Bearing, That he did shew to a Notar, and two Witnesses, a vast number of Goods all broken and spoiled; his Books, Papers, Maps, and things of that kind, partly torn and rent, partly covered over with filth and mire.

VI. The reall loss, or Embzilmēt of Goods is very considerable. And how can it be otherwise? They lying here and there in smal parcels in the street, not only all day, but a good part of the night.

VII. The Loss sustained by the Auction of more than the half of the Goods, at least as to bulk, they rather being given away, than sold, ( so inconsiderable was the price ) is not little.

VIII. The Transporting what rested into *Edinburgh*, viz. Eleven Cais full besides single Horses, And that when the way was worst, and the Labouring throughest in the middle of March.

IX. Add to these his Salaries (400 merks a Year) since *Wh 4 Sunday 1689* with the Profites and Casualties of the Schooll from *Marrium 18* thereafter. Item, The House and Garden.

¶ All these no question will amount to a good Round Sum, if duly considered, especially, if you forget not to subjoyne the Pretium Affectionis of things, as well as Valorem, and the wrongous Imprisonment, and other Blasts above said.

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